



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,917	06/04/2004	Evan P. Ireland	SYB/0101.01	3916
31779	7590	08/04/2009		
JOHN A. SMART 201 LOS GATOS SARATOGA RD, #161 LOS GATOS, CA 95030-5308			EXAMINER WANG, RONGFA PHILIP	
			ART UNIT	PAPER NUMBER
			2191	
			MAIL DATE	DELIVERY MODE
			08/04/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: EVAN P. IRELAND

Application No. 10/709,917
Technology Center 2100

Mailed: August 4, 2009

Before Deborah L. Perry, Supervisory Paralegal Specialist, Review Team.
Perry, Supervisory Paralegal Specialist, Review Team.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on July 27, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

AMENDMENT AFTER FINAL

A review of the file indicates that on February 9, 2009, Appellant filed an Amendment After Final to amend the Specification, in response to the Final Rejection mailed September 12, 2008. It is not clear whether this Amendment has been considered, because an Advisory Action has not been mailed.

Consideration and acknowledgment of the Amendment is required.

EXAMINER'S ANSWER

The Examiner's Answer issued April 28, 2009, and the Final Rejection issued September 12, 2008, states that:

Claims 1-5, 15-19, 21-26, 28-30, 33, 40-43,
and 45-46 are rejected under 35 U.S.C. 102(b)
as being unpatentable over DeGroot et al.
(US Patent 6,182,277) in view of McGurrian et al.
(US PN 5,913,063).

It is believed that the Examiner intended to state that the claims were rejected under 35 U.S.C. 103.

Clarification for the record is requested.

CONCLUSION

Accordingly, it is
ORDERED that the application is returned to the Examiner to:
1) consider and acknowledge Amendment After Final, filed

Application No. 10/709,917

February 9, 2009;

- 2) vacate the Examiner's Answer and issue either
 - a) a Substitute Examiner's Answer to correct the appendix heading: Status of Claims, Status of Amendments, "Grounds of Rejection to be Reviewed on Appeal," "Arguments" sections and to correct other sections of the Answer as may be required; or
 - b) alternatively, if appropriate, issue a Supplemental Examiner's Answer and include the necessary approval from the TC Director or designee in accordance with MPEP 1207.05; and
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DLP/bar

JOHN A. SMART
201 LOS GATOS
SARATOGA RD, #161
LOS GATOS, CA 95030-5308